

AMENDED IN SENATE JUNE 20, 2013

AMENDED IN SENATE MAY 21, 2013

Senate Constitutional Amendment

No. 3

Introduced by Senators Leno, Hill, and Pavley
(Principal coauthors: Senators Corbett and Wolk)
(Coauthors: Senators De León, DeSaulnier, Evans, Price, and Yee)
(Coauthors: Assembly Members Ammiano, Buchanan, and Gordon)

December 3, 2012

Senate Constitutional Amendment No. 3—~~A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 4 of, and by adding Section 4.5 to, Article XIII A thereof, by amending Section 2 of Article XIII C thereof, and by amending Section 3 of Article XIII D thereof, relating to taxation.~~ *A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 3 of Article I and Section 6 of Article XIII B thereof, relating to public information.*

LEGISLATIVE COUNSEL'S DIGEST

SCA 3, as amended, Leno. ~~Taxation: educational entities: parcel tax.~~ *Public information.*

The California Constitution provides that the people have the right of access to information concerning the conduct of the people's business. The California Constitution requires that the meetings of public bodies and the writings of public officials and agencies be open to public scrutiny. The California Constitution requires that whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse the local government for the costs of

the program or increased level of service. The California Constitution exempts certain mandates from the requirement to provide a subvention of funds.

The California Public Records Act (CPRA) provides that public records are open to inspection at all times during the office hours of the state or local agency that retains those records, and that every person has a right to inspect any public record, except as provided. The Ralph M. Brown Act (Brown Act) requires each legislative body of a local agency to provide notice of the time and place for holding regular meetings and requires that all meetings of a legislative body be open and public. Under the act, all persons are permitted to attend any meeting of the legislative body of a local agency, unless a closed session is authorized.

This measure would require each local agency to comply with the CPRA and the Brown Act, and with any subsequent statutory enactment amending either act, enacting a successor act, or amending any successor act which contains findings demonstrating that the statutory enactment furthers the purposes of the people's right of access to information concerning the conduct of the people's business. The measure would specifically exempt mandates contained within the scope of those acts, and certain subsequent statutory enactments that contain findings demonstrating that the statutory enactment furthers those same purposes, from the requirement to provide a subvention of funds.

~~The California Constitution generally conditions the imposition of a special tax by a city, county, or special district, including a school district, upon the approval of $\frac{2}{3}$ of the voters of the city, county, or special district voting on that tax.~~

~~This measure would alternatively condition the imposition, extension, or increase of a parcel tax, as defined, by a school district, community college district, or county office of education upon the approval of 55% of its voters voting on the proposition, if the proposition meets specified requirements. This measure would also make conforming changes to related provisions.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

- 1 *Resolved by the Senate, the Assembly concurring, That the*
- 2 *Legislature of the State of California at its 2013–14 Regular*
- 3 *Session commencing on the third day of December 2012,*
- 4 *two-thirds of the membership of each house concurring, hereby*

1 proposes to the people of the State of California, that the
2 Constitution of the State be amended as follows:

3 *First—That Section 3 of Article I thereof is amended to read:*

4 SEC. 3. (a) The people have the right to instruct their
5 representatives, petition government for redress of grievances, and
6 assemble freely to consult for the common good.

7 (b) (1) The people have the right of access to information
8 concerning the conduct of the people's business, and, therefore,
9 the meetings of public bodies and the writings of public officials
10 and agencies shall be open to public scrutiny.

11 (2) A statute, court rule, or other authority, including those in
12 effect on the effective date of this subdivision, shall be broadly
13 construed if it furthers the people's right of access, and narrowly
14 construed if it limits the right of access. A statute, court rule, or
15 other authority adopted after the effective date of this subdivision
16 that limits the right of access shall be adopted with findings
17 demonstrating the interest protected by the limitation and the need
18 for protecting that interest.

19 (3) Nothing in this subdivision supersedes or modifies the right
20 of privacy guaranteed by Section 1 or affects the construction of
21 any statute, court rule, or other authority to the extent that it
22 protects that right to privacy, including any statutory procedures
23 governing discovery or disclosure of information concerning the
24 official performance or professional qualifications of a peace
25 officer.

26 (4) Nothing in this subdivision supersedes or modifies any
27 provision of this Constitution, including the guarantees that a
28 person may not be deprived of life, liberty, or property without
29 due process of law, or denied equal protection of the laws, as
30 provided in Section 7.

31 (5) This subdivision does not repeal or nullify, expressly or by
32 implication, any constitutional or statutory exception to the right
33 of access to public records or meetings of public bodies that is in
34 effect on the effective date of this subdivision, including, but not
35 limited to, any statute protecting the confidentiality of law
36 enforcement and prosecution records.

37 (6) Nothing in this subdivision repeals, nullifies, supersedes, or
38 modifies protections for the confidentiality of proceedings and
39 records of the Legislature, the Members of the Legislature, and its
40 employees, committees, and caucuses provided by Section 7 of

1 Article IV, state law, or legislative rules adopted in furtherance of
2 those provisions; nor does it affect the scope of permitted discovery
3 in judicial or administrative proceedings regarding deliberations
4 of the Legislature, the Members of the Legislature, and its
5 employees, committees, and caucuses.

6 *(7) In order to ensure public access to the meetings of public*
7 *bodies and the writings of public officials and agencies, as*
8 *specified in paragraph (1), each local agency is hereby required*
9 *to comply with the California Public Records Act (Chapter 3.5*
10 *(commencing with Section 6250) of Division 7 of Title 1 of the*
11 *Government Code) and the Ralph M. Brown Act (Chapter 9*
12 *(commencing with Section 54950) of Part 1 of Division 2 of Title*
13 *5 of the Government Code), and with any subsequent statutory*
14 *enactment amending either act, enacting a successor act, or*
15 *amending any successor act that contains findings demonstrating*
16 *that the statutory enactment furthers the purposes of this section.*

17 *Second—That Section 6 of Article XIII B thereof is amended to*
18 *read:*

19 SEC. 6. (a) Whenever the Legislature or any state agency
20 mandates a new program or higher level of service on any local
21 government, the State shall provide a subvention of funds to
22 reimburse that local government for the costs of the program or
23 increased level of service, except that the Legislature may, but
24 need not, provide a subvention of funds for the following mandates:

25 (1) Legislative mandates requested by the local agency affected.

26 (2) Legislation defining a new crime or changing an existing
27 definition of a crime.

28 (3) Legislative mandates enacted prior to January 1, 1975, or
29 executive orders or regulations initially implementing legislation
30 enacted prior to January 1, 1975.

31 *(4) Legislative mandates contained in statutes within the scope*
32 *of paragraph (7) of subdivision (b) of Section 3 of Article I.*

33 (b) (1) Except as provided in paragraph (2), for the 2005–06
34 fiscal year and every subsequent fiscal year, for a mandate for
35 which the costs of a local government claimant have been
36 determined in a preceding fiscal year to be payable by the State
37 pursuant to law, the Legislature shall either appropriate, in the
38 annual Budget Act, the full payable amount that has not been
39 previously paid, or suspend the operation of the mandate for the

1 fiscal year for which the annual Budget Act is applicable in a
2 manner prescribed by law.

3 (2) Payable claims for costs incurred prior to the 2004–05 fiscal
4 year that have not been paid prior to the 2005–06 fiscal year may
5 be paid over a term of years, as prescribed by law.

6 (3) Ad valorem property tax revenues shall not be used to
7 reimburse a local government for the costs of a new program or
8 higher level of service.

9 (4) This subdivision applies to a mandate only as it affects a
10 city, county, city and county, or special district.

11 (5) This subdivision shall not apply to a requirement to provide
12 or recognize any procedural or substantive protection, right, benefit,
13 or employment status of any local government employee or retiree,
14 or of any local government employee organization, that arises
15 from, affects, or directly relates to future, current, or past local
16 government employment and that constitutes a mandate subject
17 to this section.

18 (c) A mandated new program or higher level of service includes
19 a transfer by the Legislature from the State to cities, counties, cities
20 and counties, or special districts of complete or partial financial
21 responsibility for a required program for which the State previously
22 had complete or partial financial responsibility.

23 ~~First—That Section 4 of Article XIII A thereof is amended to~~
24 ~~read:~~

25 ~~SEC. 4.—Except as provided by Section 4.5, a city, county, or~~
26 ~~special district, by a two-thirds vote of its voters voting on the~~
27 ~~proposition, may impose a special tax within that city, county, or~~
28 ~~special district, except an ad valorem tax on real property or a~~
29 ~~transactions tax or sales tax on the sale of real property within that~~
30 ~~city, county, or special district.~~

31 ~~Second—That Section 4.5 is added to Article XIII A thereof,~~
32 ~~to read:~~

33 ~~SEC. 4.5. (a) The imposition, extension, or increase of a parcel~~
34 ~~tax on real property by a school district, community college district,~~
35 ~~or county office of education, as may otherwise be authorized by~~
36 ~~law, is subject to approval by 55 percent of the voters of that district~~
37 ~~or county voting on the proposition, if all of the following~~
38 ~~conditions are met:~~

1 ~~(1) The proposition is approved by a majority vote of the~~
2 ~~membership of the governing board of the school district,~~
3 ~~community college district, or county office of education.~~

4 ~~(2) The proposition contains all of the following accountability~~
5 ~~requirements:~~

6 ~~(A) A list of the specific purposes and programs that are to be~~
7 ~~funded.~~

8 ~~(B) A requirement that the proceeds be used only for the~~
9 ~~purposes and programs specified in the proposition, and not for~~
10 ~~any other purpose.~~

11 ~~(C) To ensure compliance with subparagraph (B), a requirement~~
12 ~~that the governing board of the school district, community college~~
13 ~~district, or county office of education conduct an annual~~
14 ~~independent financial audit of the amount of parcel tax proceeds~~
15 ~~collected and expended, and the specified purposes and programs~~
16 ~~funded.~~

17 ~~(D) To ensure compliance with subparagraph (B), a requirement~~
18 ~~that the governing board of the school district, community college~~
19 ~~district, or county office of education establish a citizens' oversight~~
20 ~~committee to review all expenditures of proceeds and financial~~
21 ~~audits, and report its findings to the governing board and to the~~
22 ~~public.~~

23 ~~(3) The proposition allows for an exemption from tax, to be~~
24 ~~claimed under procedures established by the county, for any parcel~~
25 ~~that, as of January 1 of each year, is owned by and upon which is~~
26 ~~located the principal residence of, either a person or persons~~
27 ~~receiving Social Security Disability Insurance benefits, regardless~~
28 ~~of age, whose yearly income does not exceed 25 percent of the~~
29 ~~2012 federal poverty guidelines issued by the United States~~
30 ~~Department of Health and Human Services, or a person or persons~~
31 ~~receiving Supplemental Security Income for a disability.~~

32 ~~(b) For purposes of this section, "parcel tax" means a special~~
33 ~~tax imposed upon a parcel of real property at a rate that is~~
34 ~~determined without regard to that property's value.~~

35 ~~(c) The total amount of parcel tax impositions, increases, or~~
36 ~~extensions submitted to the voters for approval in accordance with~~
37 ~~this section at any election by a school district, community college~~
38 ~~district, or county office of education shall be established by the~~
39 ~~governing board of the school district, community college district,~~
40 ~~or county office of education and shall not exceed that amount.~~

1 This maximum amount shall be annually adjusted to account for
2 inflation, measured as the annual change, from June to June of
3 each year, in the California Consumer Price Index, as published
4 by the Department of Industrial Relations, or any successor to that
5 index.

6 (d) ~~Proceeds of any tax approved pursuant to this section shall~~
7 ~~not be used to pay salaries of any administrator of any school~~
8 ~~district, community college district, or county office of education.~~

9 (e) ~~This section does not limit any other authority of a school~~
10 ~~district, community college district, or county office of education~~
11 ~~to impose a special tax approved in accordance with Section 4 of~~
12 ~~this article or Section 2 of Article XIII C.~~

13 ~~Third—That Section 2 of Article XIII C thereof is amended to~~
14 ~~read:~~

15 ~~SEC. 2. Notwithstanding any other provision of this~~
16 ~~Constitution:~~

17 (a) ~~Any tax imposed by any local government is either a general~~
18 ~~tax or a special tax. A special district or agency, including a school~~
19 ~~district, has no authority to levy a general tax.~~

20 (b) ~~A local government may not impose, extend, or increase~~
21 ~~any general tax unless and until that tax is submitted to the~~
22 ~~electorate and approved by a majority vote. A general tax is not~~
23 ~~deemed to have been increased if it is imposed at a rate not higher~~
24 ~~than the maximum rate so approved. The election required by this~~
25 ~~subdivision shall be consolidated with a regularly scheduled general~~
26 ~~election for members of the governing body of the local~~
27 ~~government, except in cases of emergency declared by a unanimous~~
28 ~~vote of the governing body.~~

29 (c) ~~Any general tax imposed, extended, or increased, without~~
30 ~~voter approval, by any local government on or after January 1,~~
31 ~~1995, and prior to November 6, 1996, may continue to be imposed~~
32 ~~only if that general tax is approved by a majority vote of the voters~~
33 ~~voting in an election on the issue of the imposition, which election~~
34 ~~shall be held no later than November 6, 1998, and in compliance~~
35 ~~with subdivision (b).~~

36 (d) ~~Except as provided by Section 4.5 of Article XIII A, a local~~
37 ~~government may not impose, extend, or increase any special tax~~
38 ~~unless and until that tax is submitted to the electorate and approved~~
39 ~~by a two-thirds vote. A special tax is not deemed to have been~~

1 increased if it is imposed at a rate not higher than the maximum
2 rate so approved.

3 ~~Fourth—That Section 3 of Article XIII D thereof is amended~~
4 ~~to read:~~

5 SEC. 3. (a) ~~An agency shall not assess a tax, assessment, fee,~~
6 ~~or charge upon any parcel of property or upon any person as an~~
7 ~~incident of property ownership except:~~

8 ~~(1) The ad valorem property tax imposed pursuant to Article~~
9 ~~XIII and Article XIII A.~~

10 ~~(2) Any special tax receiving a two-thirds vote pursuant to~~
11 ~~Section 4 of Article XIII A, or, as applicable, a 55-percent vote~~
12 ~~pursuant to Section 4.5 of Article XIII A.~~

13 ~~(3) Assessments as provided by this article.~~

14 ~~(4) Fees or charges for property-related services as provided by~~
15 ~~this article.~~

16 ~~(b) For purposes of this article, fees for the provision of electrical~~
17 ~~or gas service are not charges or fees imposed as an incident of~~
18 ~~property ownership.~~